

S/N 09/975,529

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Craig A. Nelson et al.

Examiner: Unknown

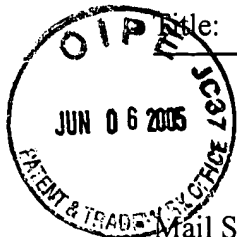
Serial No.: 09/975,529

Group Art Unit: Unknown

Filed: October 10, 2001

Docket: 400.072US3

Title: MODEM WITH FIRMWARE UPGRADE FEATURE



COMMENTS ON EXAMINER'S STATEMENT  
OF REASONS FOR ALLOWANCE

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Page 2 of the Notice of Allowability dated March 28, 2005 states that the allowed claims are 10-30 and includes various assertions concerning aspects of the claims. Without acquiescing to the veracity of the various assertions, Applicants respectfully submit that the claims may be allowable for one or more reasons in addition to and/or in alternative to those reasons identified in the Notice of Allowability.

Applicants respectfully submit that the Examiner's statement of reasons for allowance is not a faithful recitation or accurate paraphrase of the noted claims. For example, the claims do not explicitly refer to "steps of" or "means for."

Additionally, the Notice of Allowability refers to "prior art," however Applicants do not make any admissions regarding the prior-art status of any document in the record of the application. Instead, Applicants regard such documents as only being "of record."

In particular, Applicants respectfully submit that the Notice of Allowability may be unclear and unduly limiting of the claimed subject matter. Among other things, the Notice of Allowability appears to unnecessarily emphasize selected aspects of the claims in contrast to the precept that the claims are to be read as a whole.

Applicants respectfully assert that the claims should speak for themselves, and that the scope of the claims should not be limited in any way by the Notice of Allowability. Applicants reserve the right to further address one or more aspects of the Notice of Allowability as may later be necessary or desirable.

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Page 2

Dkt: 400.072US3

The Examiner is invited to telephone Applicants' attorney at (612) 373-6911 if there are any questions regarding this application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

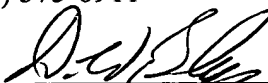
CRAIG A. NELSON ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 373-6911

Date June 3, 2005

By



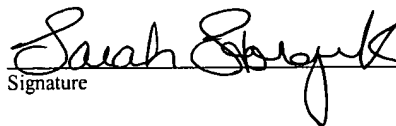
David W Black

Reg. No. 42,331

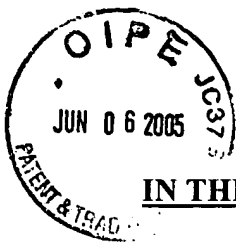
CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 3 day of June, 2005.

Sarah Storozuk

Name



Signature



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Craig A. Nelson et al.

Title: MODEM WITH FIRMWARE UPGRADE FEATURE

Docket No.: 400.072US3

Filed: October 10, 2001

Examiner: Unknown

Customer No.: 21186

Serial No.: 09/975,529

Due Date: June 28, 2005

Group Art Unit: Unknown

Confirmation No.:

Commissioner for Patents

Attn: MAIL STOP ISSUE FEE

P.O. Box 1450

Alexandria, VA 22313-1450

**Notice of Allowance Date:**

March 28, 2005

We are transmitting herewith the attached:

☒ A check in the amount \$ 700.00 to cover the Small Entity Issue Fee Payment.

☒ A check in the amount \$ 30.00 to cover the Extra Patent Copies Fee (10 copies).

☒ Issue Fee Transmittal (Form PTOL-85).

☒ A check in the amount \$ 300.00 to cover the Publication Fee Payment.

☒ Comments on Examiner's Statement of Reasons for Allowance (2 pgs.)

☒ A return postcard.

**Please charge any additional required fees for the Issue Fee Payment or credit overpayment to Deposit Account No. 19-0743.**

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

Customer Number: 21186

By

David W. Black

Reg. No. 42,331

DWB:CMG:sls

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, Attn – MAIL STOP ISSUE FEE, P.O. Box 1450, Alexandria, VA 22313-1450, on this 3 day of June, 2005.

Sarah Storozuk

Name

Sarah Storozuk

Signature